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5 Attorney for Plaintiffs

6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE DISTRICT OF ARIZONA
PRESCOTT DIVISION

8 Tony Manzo, *et al.*

No. 3:22-cv-8081-PCT-JJT

9 Plaintiffs,

10 v.

**DECLARATION OF BRIAN
KIMMERLE**

11 Engrained Cabinetry and Countertops,
12 LLC, Inspired Closets of Arizona, LLC,
and Thomas Corkery,

13 Defendants.

14 I, Brian Kimmerle, do hereby swear, affirm and attest as follows, based upon
15 my personal knowledge of the matters contained herein:

16 1. My name is Brian Kimmerle; I am over the age of 18 and duly qualified
17 to execute this declaration.

18 2. I worked for Defendants Engrained Cabinetry and Countertops, LLC,
19 and Thomas Corkery as a kitchen designer from approximately December of 2000
20 until the middle of 2021.

1 3. As a kitchen designer, I designed and sold closet and storage solutions
2 for Defendants' customers according to the customer and Defendants' needs and
3 specifications.

4 4. Specifically, I used a computer program to design custom storage
5 solutions for Defendants' customers.

6 5. During the first few months of my employment, I received a draw from
7 Defendants that I was required to pay back out of my commissions once I started
8 making sales. After the first few months, my sole source of income was commissions
9 on sales.

10 6. My design work for customers took more than 40 hours per week. To
11 run a design from start to finish, I had to physically take measurements of the space I
12 was designing for, interview the customer about their needs and budget, run price
13 points on all materials required, create the physical design, and create a quote for the
14 customer.

15 7. If the customer moved forward, I also supervised the installation process
16 and ensured everything was to customer satisfaction.

17 8. The amount of time this took obviously varied based on the size of the
18 job; some could take as little as 20 hours and some could take several weeks. I ran
19 about 40 jobs at a time.

20 9. Because my income was commission-based, the more sales I made the
21 more income I earned. I regularly worked after business hours in order to finish up
22

1 quotes and designs so that I could move projects forward. Defendants didn't ask me
2 not to work after-hours, nor did they require me to track my time.

3 10. I probably worked at least 50 hours per week solely on making designs
4 and quotes.

5 11. Defendants also scheduled kitchen designer to work regular shifts in the
6 showroom. A lot of my regular work hours were taken up with assisting customers in
7 the showroom, which is why I worked on designs and quotes after hours. Added
8 together, I worked approximately 65 hours per week.

9 12. I hardly ever received my full commission. Other than paying back the
10 draw, Defendants deducted portions of my commission for any error I made in the
11 design such as a mismeasurement or an incorrect material.

12 **PURSUANT TO 28 U.S.C. § 1746, I VERIFY UNDER PENALTY OF**
13 **PERJURY UNDER THE LAWS OF THE UNITED STATES OF AMERICA**
THAT THE FOREGOING IS TRUE AND CORRECT.

14 Executed on this 25th day of October, 2023.

15 
16 **BRIAN KIMMERLE**